

John J. Duffy (SB No. 6224834)
Kevin M. Ringel (SB No. 6308106)
Margaret C. Redshaw (SB No. 6327480)
SWANSON, MARTIN & BELL, LLP
330 N Wabash, Suite 3300
Chicago, Illinois 60611
Tel: (312) 321-9100; Fax: (312) 321-0990
jduffy@smbtrials.com
kringel@smbtrials.com
mredshaw@smbtrials.com

Marc G. Cowden (SB No. 169391)
Adam Stoddard (SB No. 272691)
**SHEUERMAN, MARTINI, TABARI,
ZENERE & GARVIN**
1033 Willow Street
San Jose, California 95125
Tel: (408) 288-9700; Fax: (408) 295-9900
mcowden@smtlaw.com
astoddard@smtlaw.com

Counsel for Defendant Chart Inc.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

IN RE PACIFIC FERTILITY CENTER
LITIGATION

This Document Relates to:
Case No. 3:18-cv-01586
(A.B., C.D., E.F., G.H., and I.J.)

Case No. 3:18-cv-01586-JSC

**DECLARATION OF KEVIN M.
RINGEL IN SUPPORT OF CHART
INC.'S RESPONSE TO PLAINTIFFS'
MOTION TO FILE UNDER SEAL**

1 I, Kevin M. Ringel, declare as follows:

2 1. I am a partner at the law firm of Swanson, Martin & Bell, LLP, which is counsel
3 of record for Defendant Chart Inc. I am an attorney admitted to practice in the State of Illinois
4 and am admitted *pro hac vice* before this Court. I submit this declaration in accordance with
5 Civil Local Rules 79-5(e)(1) and 79-5(d)(1)(A) in support of Chart Inc.'s Response to Plaintiffs'
6 Administrative Motion to File Under Seal (ECF No. 630) the following documents or portions
7 thereof:

8

- 9 ➤ Portions of Plaintiffs' Motion to Exclude Expert Testimony;
- 10 ➤ Certain exhibits to the Declaration of Amy M. Zeman in Support of Plaintiffs'- 11 Motion to Exclude Expert Testimony, including
 - 12 ■ Exhibit 1 – Expert Report of Eldon Leaphart dated November 6, 2020;
 - 13 ■ Exhibit 2 – Excerpts from the November 18, 2020 deposition of Eldon
14 Leaphart;
 - 15 ■ Exhibit 3 – Expert Report of John Cauthen dated November 6, 2020;
 - 16 ■ Exhibit 4 – Excerpts from the November 24, 2020 Deposition of John
17 Cauthen;
 - 18 ■ Exhibit 7 – Supplemental Report of Franklin Miller dated November 20,
19 2020;
 - 20 ■ Exhibit 8 – Excerpts from the December 1, 2020 Franklin Miller deposition;
 - 21 ■ Exhibit 9 – Second Rebuttal Report of Franklin Miller dated December 11,
22 2020; and
- 23 ➤ Portions of Plaintiffs' Proposed Order to Exclude Expert Testimony.

24

1. Plaintiffs identified portions of their Motion to Exclude Expert Testimony as
 2. quoting, referencing, or otherwise relying on documents designated in full by Chart as
 3. “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant
 4. to the Second Amended Stipulated Protective Order. Chart submits limited designations tailored
 5. only to Chart’s business operations processes and functions. Chart responds to each individual
 6. designation as follows:

Page	Line(s)	Designating Party	Chart Response	Chart’s Limited Designations (Page:Line)
1	8 – 21	Chart Inc.	Chart withdraws its designation of the referenced information. Chart submits narrow redactions tailored only to sensitive business information in the following column.	1:19-20 (iv and v)
1	23	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
2	7 – 13	Chart Inc.	Chart withdraws its designation of the referenced information. Chart submits narrow redactions tailored only to sensitive business information in the following column.	2:10-12.
2	16 – 25	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
3	1 – 4	Chart Inc.	Chart withdraws its designation of the referenced information. Chart submits narrow redactions tailored only to	3:1.

1			sensitive business information in the following column.	
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3	6	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
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5	4 – 17	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
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7	5	24 – 28	Chart Inc.	Chart agrees with the designation.
8				5:24-28a.
9				
10	6	1	Chart Inc.	Chart agrees with the designation.
11				6:1.
12				
13	6	3 – 6	Chart Inc.	Chart submits its amended designation tailored only to sensitive business information in the following column.
14				6:3-6, 9.
15				
16	6	9 – 18	Chart Inc.	Chart withdraws its designation of the referenced information. Chart submits narrow redactions tailored only to sensitive business information in the following column.
17				6:18.
18				
19	6	23 – 28	Chart Inc.	Chart withdraws its designation of the referenced information. Chart submits narrow redactions tailored only to sensitive business information in the following column.
20				6:28.
21				
22	7	1 – 2	Chart Inc.	Chart withdraws its designation of the referenced information.
23				7:1.
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1	2	3	Chart submits narrow redactions tailored only to sensitive business information in the following column.	
4	7	6 – 13	Chart Inc.	Chart withdraws its designation of the referenced information.
5	7	15 – 27	Chart Inc.	Chart withdraws its designation of the referenced information. Chart submits narrow redactions tailored only to sensitive business information in the following column.
6	8	3 – 15	Chart Inc.	Chart withdraws its designation of the referenced information.
7	8	18 – 28	Chart Inc.; Pacific MSO, LLC	Chart withdraws its designation of the referenced information.
8	9	1 – 18	Chart Inc.; Pacific MSO, LLC	Chart withdraws its designation of the referenced information.
9	10	4 – 11	Chart Inc.; Pacific MSO, LLC	Chart withdraws its designation of the referenced information.
10	10	17 – 27	Chart Inc.	Chart withdraws its designation of the referenced information.
11	11	1 – 2	Chart Inc.	Chart withdraws its designation of the referenced information.
12	11	10 – 25	Chart Inc.; Pacific MSO, LLC	Chart withdraws its designation of the referenced information.

1	12	4 – 6	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
2	12	10 – 18	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
3	12	21 – 22	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
4	13	1 – 10	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
5	13	18 - 28	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
6	14	4 – 6	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
7	14	11 – 16	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
8	14	23 – 28	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
9	15	2 – 9	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
10	15	13 – 14	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
11	15	17	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
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1	16	22 – 26	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
2	16	2 – 7	Chart Inc.	Chart agrees with this designation.	16:2-7.
3	16	9 - 12	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
4	16	14 – 15	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
5	16	20 – 24	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
6	17	4 – 17	Chart Inc.	Chart withdraws its designation of the referenced information. Chart submits narrow redactions tailored only to sensitive business information in the following column.	17:8-15.
7	17	19	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
8	17	24 – 28	Chart Inc.	Chart agrees with this designation.	17:24-28.
9	18	1 – 2	Chart Inc.	Chart agrees with this designation.	18:1-2.
10	18	4 – 5	Chart Inc.	Chart agrees with this designation.	18:4-5.
11	18	7 – 11	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
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1	18	17 – 25	Chart Inc.	Chart withdraws its designation of the referenced information. Chart submits narrow redactions tailored only to sensitive business information in the following column.	18:18-25.
2	19	1 – 4	Chart Inc.	Chart agrees with this designation.	19:1-4.
3	19	20 – 26	Chart Inc.	Chart agrees with this designation.	19:20-26.
4	20	1 – 10	Chart Inc.	Chart agrees with this designation.	20:1-10.
5	20	16	Chart Inc.	Chart submits its amended designation tailored only to sensitive business information in the following column.	20:11-21.
6	20	20 – 21	Chart Inc.	Chart agrees with this designation.	20:20-21.
7	21	4 – 6	Chart Inc.	Chart agrees with this designation.	21:4-6.
8	21	10	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
9	21	12	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
10	21	14 – 15	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
11	21	17 – 23	Chart Inc.	Chart withdraws its designation of the referenced information.	None.

1	22	2	Chart Inc.	Chart agrees with this designation.	22:2
2	22	13 – 22	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
3	23	1 – 12	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
4	23	14	Chart Inc.	Chart withdraws its designation of the referenced information.	None.
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11 3. Plaintiffs identified exhibits 1 through 11 to the Declaration of Amy M. Zeman in
 12 Support of Plaintiffs' Motion to Exclude Expert Testimony as quoting, referencing, or otherwise
 13 relying on documents designated in full by Chart as "CONFIDENTIAL" or "HIGHLY
 14 CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to the Second Amended Stipulated
 15 Protective Order. Chart withdraws its designations in full and submits limited designations tailored
 16 only to Chart's business operations processes and functions. Chart responds to each individual
 17 designation as follows:

Exhibit	Page	Chart's Response	Chart's Limited Designations
21 1	Designated in Full	Chart withdraws its designation in full of Exhibit 1. Chart submits narrow redactions tailored only to sensitive business information in the following column.	p. 1, Summary of Opinions, No. 1-4; 22 p. 7 (excluding ¶1); 23 p. 8, 4.1, ¶¶2-5; 24 pp.10-32; 25 p. 35, ¶¶ 6.1, 6.2; 26 p. 36, ¶¶ 6.3, 6.4; and

1			p. 38, ¶1.
2	Designated in Full	Chart withdraws its designation in full of Exhibit 2. Chart submits narrow redactions tailored only to sensitive business information in the following column.	(Page:Lines) 27:7-20; 73:13-23; 76:10-25; pp. 77-83; 138:3-25 pp. 149-151; 152:17-25; pp. 153-158; and 159:1-11.
3	Designated in Full	Chart withdraws its designation in full of Exhibit 3. Chart submits narrow redactions tailored only to sensitive business information in the following column.	p. 4, "Findings," No. 1-4; pp. 8-12, ¶III.A; and p. 23, "Conclusion," No. 1-4.
4	Designated in Full	Chart withdraws its designation in full of Exhibit 4. Chart submits narrow redactions tailored only to sensitive business information in the following column.	(Page:Lines) 58:21-25; and 59:1-24.
5	Designated in Full	Chart withdraws its confidentiality designation of Exhibit 5.	None.
6	Designated in Full	Chart withdraws its confidentiality designation of Exhibit 6.	None.
7	Designated in Full	Chart withdraws its designation in full of Exhibit 7. Chart submits narrow redactions tailored only to	p. 4, ¶III.E(3); pp. 6-7, ¶IV.B;

1		sensitive business information in the following column.	p. 8, Section V; pp. 12-22: ¶VI.B (incl. Figures 4-13); and p. 23, Section VIII.	
2	8	Designated in Full	Chart withdraws its designation in full of Exhibit 8. Chart submits narrow redactions tailored only to sensitive business information in the following column.	(Page:Line) 107:9-25; 108:1-25; 109:19-25 pp. 110-114; 115:1-13; 122:19-25; pp.123-141; 142:1-19; 143:10-25; p. 144; 145:1-12; 149:19-25; pp.150-152; 176:1-25; 177:1-2; 215:22-25; p. 216; 217:1-18; 234:19-25; p. 235;

1	2	3	236:1-16; 238:23-25; and 239:1-3.
4	5	6	7
9	Designated in Full	Chart withdraws its designation in full of Exhibit 9. Chart submits narrow redactions tailored only to sensitive business information in the following column.	pp. 2-11 (incl. Figures 1- 11).
10	Designated in Full	Chart withdraws its confidentiality designation of Exhibit 10.	None.
11	Designated in Full	Chart withdraws its confidentiality designation of Exhibit 11.	None.

12 4. Plaintiffs identified portions of their Proposed Order to Exclude Expert Testimony
 13 as quoting, referencing, or otherwise relying on documents designated by Chart as
 14 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant
 15 to the Second Amended Stipulated Protective Order. With the exception of designations related to
 16 plaintiffs identifying information, Chart submits limited designations tailored only to Chart’s
 17 business operations processes and functions. Chart responds to each individual designation as
 18 follows:

Page	Line(s)	Designating Party	Chart’s Response	Chart’s Limited Designations
21 22 1	23 24 25 26 7-22	27 28 Chart Inc.	Chart withdraws its designation of lines 11-15, 22. Chart submits narrow redactions tailored only to sensitive business information in the following column.	1:7-10, 16-21.

1 I declare under penalty of perjury under the laws of the United States that the foregoing
2 in true and correct. Executed this 8th day of January, 2021, in Chicago, Illinois.
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5
6 /s/ Kevin M. Ringel
7 Kevin M. Ringel
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10 **CERTIFICATE OF SERVICE**
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13 I hereby certify that on January 8, 2021, I electronically filed the foregoing document
14 using the CM/ECF system, which will send notification of such filing to all counsel of record
15 registered in the CM/ECF system.
16
17

18 Dated: January 8, 2021 Respectfully submitted,
19
20

21 By: /s/ Margaret C. Redshaw
22
23

24 John J. Duffy (SB No. 6224834)
25 Kevin M. Ringel (SB No. 6308106)
26 Margaret C. Redshaw (SB No. 6327480)
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28 330 N Wabash, Suite 3300
Chicago, Illinois 60611
Tel: (312) 321-9100; Fax: (312) 321-0990
jduffy@smbtrials.com
kringel@smbtrials.com
mredshaw@smbtrials.com

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32 **& GARVIN**
33 1033 Willow Street
34 San Jose, California 95125
35 Tel: (408) 288-9700; Fax: (408) 295-9900
36 mcowden@smtlaw.com
37 astoddard@smtlaw.com

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39 *Counsel for Defendant Chart, Inc.*
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